

REMARKS

The July 8, 2004, Office Action rejected original claims 1-7 and 9-14. In that regard, claims 1, 4-6, 9, 11 and 13 were rejected under 35 U.S.C. § 102(b) as anticipated by Kroher EP 0620031 B1; Claims 2, 7 and 14 were rejected under 35 U.S.C. § 103 as being unpatentable over Kroher in view of differing secondary references; and claims 1-3 were rejected under 35 U.S.C. § 103 as being unpatentable over Heilig US Des. 302, 993 in view of Peterson US 3,767,220. Additionally, claim 3 was rejected under 35 U.S.C. § 112, first paragraph, and claims 9-12 were rejected under 35 U.S.C. § 112, second paragraph. Further, the drawings were objected to because the raised portions of the deck that extend over the wheels as defined in original claim 3, and the front end of the deck that is similar to the rear end, as defined in claim 13, were considered not shown in the drawings.

First, applicant and his counsel greatly appreciate the courtesies the Examiner has afforded applicant by allowing applicant to directly discuss, via telephone, the invention with the Examiner. In that regard, applicant's counsel understands that the Examiner and applicant have discussed the cited prior art and features of the claimed invention.

By the present Amendment, applicant has cancelled his original set of claims, without prejudice, in favour of new claims 15- 24 of which claim 15 is the only independent claim. Based on applicant's telephone discussions with the Examiner, applicant is under the impression that the revised set of claims should be allowable, subject to further consideration of a newly cited prior art document US3990713 (Hokanson). In that regard, applicant believes the new set of claims is not only patentable over the prior art but also that the new set of claims is fully supported by the original drawings. Accordingly, while applicant notes the Examiner's initial Section 112, paragraph 1, objection (e.g. with respect to original claim 3), applicant respectfully submits that such rejection and the companion objection to the drawings are obviated in view of the new set of claims.

The Examiner rejected original claim 1 as anticipated by Kroher. In order to expedite the prosecution, new independent claim (Claim 15) has been amended to improve its clarity and to include the features that:

- a) a front and rear axle assembly are pivotally mounted above the plane of the central portion of the deck structure, the wheels being mounted on the axle assemblies;
- b) an elongate strengthening member extends axially of the longitudinal axis of the elongate deck structure, the strengthening member being fitted to the deck structure above the lower surface of the deck structure and extending rearwardly along the deck structure from a point in front of the rear wheel axis to a point on the kicktail;
- c) a kicktail extends upwardly and rearwardly within the rear wheel radius and continues to extend to a position disposed outwardly thereof, to provide a rear position for the rider's other foot behind the rear wheel which is substantially above the plane defined by the central portion of the deck structure and is extended to provide a position which, in use, provides a position which substantially supports the rider's rear foot beyond the radius of the rear wheels.

Support for feature (a) can be found in original claim 6, paragraphs 21, 50, 61, and also in the drawings. Support for feature (b) can be found in original claims 9, 14, paragraphs 14 and 19, 46, 52, 55, 59 and also in the drawings. Support for feature (c) can be found in the original claims 1, 2, the abstract, paragraphs 6, 9, 10, 12, 14 to 16, 45, 53 to 56, 65 and also in the drawings.

Kroher does not disclose or suggest either of features b) or c). The board of Kroher is a down hill board, unlike the board of the present invention, which is a freestyle board. In Kroher, the rider has to place their feet in foot straps 14 on the central portion of the board. This is clearly described by Kroher and is an example of the conventional design of downhill boards where the rider stands with both feet on the central portion of the deck with both axles located at the ends of the deck outside of the riders stance. There is no kicktail defining a position behind the rear wheel for the rider's rear foot.

A kicktail at the rear of the board provides the rider with the ability to ride over irregular terrain and perform freestyle manoeuvres while mounting obstacles or sliding over irregular edges or performing considerable jumps. It will be appreciated that a

kicktail must provide substantial support to the rear foot position of the kicktail to prevent the foot being forced off the deck by the considerable vibrations and irregular forces encountered in such terrain. Kroher does not disclose a kicktail and the space at the rear end of the board of Kroher is insufficient to provide a position which, in use, substantially supports the rider's rear foot beyond the radius of the rear wheels. Furthermore, all terrain boards are heavy and the space at the rear end of the board of Kroher is positioned too close to the axle to provide sufficient leverage to perform freestyle manoeuvres.

In the July 8 Office action, the Examiner also contended that it would be obvious to combine the teachings of Kroher with the teachings Barachet to provide a board with a more defined kicktail of the kind disclosed in original Claim 2. An advantage of mounting at least the central portion of the deck structure under the wheel axis is that the underside of the deck structure is unobstructed and hence the board is able to slide over obstructions. However, in order to perform freestyle manoeuvres, it is necessary to provide a kicktail, so that the rider can bear down on the kicktail to raise the front of the board off the ground.

A problem of a board of the kind disclosed by Kroher is that the deck structure is inherently closer to the ground than conventional boards because it extends beneath the wheel axis. Accordingly, if the board of Kroher were provided with a kicktail of the kind that disclosed by Barachet, the board would be unusable because the kicktail would be disposed so far behind the rear wheels that the kicktail would engage the ground before the front of the board had lifted off the ground by a substantial usable difference.

In order to overcome this problem, the kicktail of the present invention extends within the radius of the rear wheels. However, this then creates the problem that a greater leverage force is asserted on the extended kicktail when lifting the front of the board or when landing after considerable jumps, since the kicktail is positioned very close to the rear wheel axis, about which the board pivots when the kicktail is used. Applicant has found that this increased force has the tendency to cause even the most strongest board to fracture transversely at the point at which the kicktail meets the central portion of the deck structure. The present invention solves this problem by providing a strengthening

member which extends from a point in front of the rear wheel axis to a point on the kicktail. This strengthening member is provided above the lower of the deck structure to avoid fouling the underside.

None of the cited prior art documents disclose or suggest a kicktail which extends within the radius of the rear wheels and accordingly, a mere combination of the teachings of Kroher and Barachet would not produce the invention defined in Claim 1.

Furthermore, since none of the cited prior art documents disclose or suggest a kicktail which extends within a radius of the rear wheels, there has to-date be no need to strengthen the base of the kicktail.

The strengthening member is a feature of original Claim 14. While the Examiner considered this feature obvious over Kroher in view of Runyan, Runyan which discloses a conventional skateboard having a deck structure which extends above the wheel axis teaches away from Kroher. A skilled person wishing to provide the board of Kroher with a kicktail would not realise from the teachings of the other documents that the kicktail had to be mounted close to the rear wheel axis and correspondingly that strengthening had to be provided to counter the increased forces that have to be applied to the kicktail to lift the front of the board a usable distance off the ground and when landing the considerable jumps that are commonplace during all freestyle riding. In addition to this a person skilled in the art would realise that the device of Runyan would not be suitable in conjunction with the present invention as moving the rear truck position would only either make the kicktail too small to use by causing the wheels to interfere with the rear foot position or would destabilise the pivot point and cause the kicktail to engage the ground before the deck had been raised by a substantial usable distance.

In view of the forgoing, applicants believes that his invention, as defined in Claim 15, is both novel and inventive relative to the presently cited prior art documents. In addition, applicant believes that his claimed invention is both novel and inventive relative to the newly mentioned Hokanson reference. Holanson discloses a skid plate for a skateboard, in the form of a plate of metal which merely extends as a cantilever up the length of the kicktail behind the mounting block of the rear axle assembly to prevent the very end and undersurface of the kicktail from being worn away. Due to the use of a

Appl. No. 10/772,562
Amdt. Dated Dec. 8, 2004
Reply to Office Action of July 8, 2004

cantilever frame it is evident that Hokanson has not identified that there is a problem with increased leverage forces snapping the deck at the base of the kicktail when using the extended kicktail that is necessary for the present invention and does not provide any information that is relevant to the resolution of the strengthening problems of applicant's invention. If the device of Hokanson was put on the present invention it would clearly not address the problems of increased leverage breaking the deck at the base of the kicktail and would in fact focus the applied forces directly on the point where the deck is liable to break. For this reason, the strengthening member of the present invention extends from a point in front of the rear wheel axis to a point on the kicktail.

In view of the foregoing, applicant respectfully submits that the claims are in condition for allowance. Accordingly, applicant respectfully requests issuance of a Notice of Allowance.

Respectfully submitted,

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Date: December 8, 2004